



ORDINANCE 582

**AN ORDINANCE AMENDING CHAPTER 225 OF THE CODE OF THE TOWN OF
ELSMERE TO PERMIT THE ADDITION OF OPEN AIR PATIOS
INTO A PROPERTIES WHICH ARE CONSIDERED LEGAL NON-CONFORMING
USES**

Sponsored by: 1st District Councilman John Jaremchuk

First and Second Reading: August 14, 2014 Council Meeting

Results: _____

Third and Final Reading: September 11, 2014 Council Meeting

Results: _____

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WHEREAS, the Mayor and Council wish to allow open air patios on non-conforming use properties.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL
OF THE TOWN OF ELSMERE, THE FOLLOWING:**

That Chapter 225 of the Code of the Town of Elsmere be amended as follows:

1. Section 225-31 be stricken in its entirety and the following shall be added in its place:

§225-31. Continuance.

Except as otherwise provided in this article, the lawful use of land or buildings existing at the date of the adoption of this chapter may be continued although such use or building does not conform to the regulations specified by this chapter for the zone in which such land or building is located; provided, however:

- A. That no non-conforming lot shall be further reduced in size.
 - B. That no non-conforming building shall be enlarged, extended or increased unless such enlargement would tend to reduce the degree of nonconformance, except that an existing eating and drinking places may add a covered patio not exceeding 1,400 square feet that is connected to the non-conforming building.
 - C. That no non-conforming use may be expanded.
2. Section 225-35 be stricken in its entirety and the following shall be added in its place:

§225-35. Alterations.

A non-conforming building may be remodeled but not enlarged or extended, unless said building is changed to a building conforming or more nearly conforming to the requirements of this chapter, and further provided that an existing eating and drinking place may add a covered patio not exceeding 1,400 square feet that is connected to the non-conforming building. In the Floodplain

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District, until a regulatory floodway is designated, no enlargement or extension or remodeling which would be considered a substantial enlargement shall be permitted unless the applicant has demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

3. Section 225-19D (2) be stricken in its entirety and the following shall be added in its place:

§ 225-19D (2)

Each permitted use shall be conducted within a completely enclosed building, except for: (a) off-street parking; and (2) the patio permitted by Section 225-31.

4. Nothing in this Ordinance shall affect any requirement of the Elsmere Zoning Code that any alteration or construction shall be approved by the Elsmere Planning Commission.

August 14, 2014
First and Second Reading

September 11, 2014
Third and Final Reading

Steven E. Burg, Mayor

Joann I. Personti, Secretary

Approved as to form:

Town Solicitor

SYNOPSIS ORDINANCE 582

This Ordinance allows Open Air Patio's on properties which are considered to be a legal Non-Conforming Use.

Fiscal Impact: None

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